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**BRUNSWICK COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

ARTICLE I: TITLE

This ordinance, adopted by the Board of Commissioners of Brunswick County, North Carolina, shall be known as the Brunswick County Voluntary Agricultural Districts Ordinance.

ARTICLE II: AUTHORITY

The articles and sections of this ordinance are adopted pursuant to the authority conferred by N. C. General Statutes 106-735 through 106-743 and Chapter 153A.

ARTICLE III: PURPOSE

The purpose of this ordinance is to promote the health, safety, rural agricultural values, and general welfare of the county, and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of farming; increase protection from undesirable, non-farm development; and increase the protection of farms from nuisance suits and other negative impacts on properly managed farms.

ARTICLE IV: DEFINITIONS

- (A) Advisory Board: The Brunswick County Agricultural Advisory Board.
- (B) Board of Commissioners: The Board of Commissioners of Brunswick County, North Carolina.
- (C) Chairman: Chairman of the Brunswick County Agricultural Advisory Board.
- (D) District: A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE V: AGRICULTURAL ADVISORY BOARD

- (A) **Creation**
In accordance with N.C.G.S. 106-739, the Board of Commissioners hereby establishes an Agricultural Advisory Board to implement the provisions of this ordinance.
- (B) **Appointments and Memberships**
The Advisory Board shall consist of five members appointed by the Board of Commissioners.

(C) Membership Requirements

- (1) Each board member shall be a county resident and registered to vote in Brunswick County.
- (2) Four of the five members shall be actively engaged in farming.
- (3) The four members actively engaged in farming shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Brunswick Soil and Water Conservation District, the North Carolina Cooperative Extension Service, the Farm Service Agency Committee and the Brunswick County Farm Bureau, with an effort to have the broadest geographical and commodity representation possible. The fifth member shall have special interest, experience, or education in agriculture and/or rural land preservation.
- (4) In the event the Board of Commissioners increases the number of Districts, the Advisory Board may be augmented so there will be a representative for each district. If a particular district is eliminated, the term of its representative on the Advisory Board may be terminated by the Commissioners.

(D) Tenure.

The members are to serve for terms of three years, except that the initial board is to consist of two appointee(s) for a term of one year, two appointees for terms of two years, and one appointee for a term of three years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted. The terms for the initial Advisory Board members will be determined by lottery.

(E) Vacancies.

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.

(F) Removal for Cause.

Any member of the Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

(G) Funding

- (1) Compensation. The per meeting compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners.
- (2) Appropriations for performance of duties. Funds shall be appropriated by the Board of Commissioners to the Advisory Board to perform its duties. A budget request will be presented to the Board of Commissioners annually.

(H) Procedures

The Advisory Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

(1) Chairperson.

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.

(2) Jurisdiction and Procedures: Supplementary Rules.

The jurisdiction and procedures of the Advisory Board are set out in this article, except that the board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.

(3) Board Year.

The Advisory Board shall use the County fiscal year as its meeting year.

(4) Meetings.

Meetings of the Advisory Board, following such notice as required by this article, shall be held at the call of the chairperson and at such other times as the Advisory Board in its rules of procedure may specify. A called meeting shall be held at least quarterly. A quorum shall consist of a majority of the members of the Advisory Board.

(5) Voting.

The concurring vote of a majority of the members of the Advisory Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this article.

(6) Records.

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Advisory Board and shall be a public record.

(7) Administrative Services.

The North Carolina Cooperative Extension Service shall serve the Advisory Board for record keeping, correspondence, and application procedures under this article together with such other services the Advisory Board needs to complete its duties.

(I) Duties

The Advisory Board shall:

- (1) Review and approve applications for qualified farmland and Districts.
- (2) Hold public hearings pursuant to Article X of this program.
- (3) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts.
- (4) Perform other related tasks or duties assigned by the Board of Commissioners.

ARTICLE VI: CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

(A) Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of Districts which shall meet the following standards:

- (1) The District, when initially established, shall contain a minimum of 10 contiguous acres of qualified farmland, or,
- (2) Two or more qualified farms which contain a minimum of 10 acres in total and are located within a mile of each other;
- (3) The landowner(s) requesting inclusion in the District shall execute an agreement with the county to sustain agriculture in the District in accordance with Article VII of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board; and
- (4) For each of the four potential Districts created under the terms of this program, one of the existing Advisory Board members shall be assigned to represent the District by the County Commissioners.
- (5) Upon the recommendation of the Volunteer Agricultural District Advisory Board, the Board of County Commissioners may decrease or increase the number of Districts as set forth here.

(B) Education

The County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

(C) Withdrawal

In the event that one or more participants in a District withdraw and the acreage becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a District will continue to exist so long as there is one qualifying farm.

ARTICLE VII: CERTIFICATION AND QUALIFICATION OF FARMLAND

(A) Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property;
- (2) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7, or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;
- (3) The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the North Carolina Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that:
 - (a) Are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
 - (b) have good soil qualities;
 - (c) are favorable for all major crops common to the county where the land is located;
 - (d) have a favorable growing season; and
 - (e) receive the available moisture needed to produce high yields for an average of eight out of ten years; or soils on which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined in G.S. 105-277.2 (1, 2, 3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;
- (4) The property is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the board in accordance with Article IX.

ARTICLE VIII: APPLICATION, APPROVAL, AND APPEAL PROCEDURE

(A) Application Procedure

- (1) A landowner may apply to participate in the program by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a District may be filed with the certification for qualifying farmland.

- (2) An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.
- (B) Approval Process
 - (1) Upon submission of the application to the Advisory Board, the Advisory Board shall meet within thirty (30) days to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district.
 - (2) Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application.
 - (a) The Brunswick County Tax Assessor;
 - (b) The Brunswick Soil and Water Conservation District office; and
 - (c) The Natural Resources Conservation Service.
- (C) Appeal

If an application is denied by the Advisory Board, the petitioner shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX: REVOCATION OF PRESERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Article VII (4) of this ordinance, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a District and the benefits thereof. Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a District shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.6. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Article VI.

ARTICLE X: PUBLIC HEARINGS

- (A) Purpose

Pursuant to N.C.G.S. 106-740, no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation. The procedures for such hearings shall be as set forth below.

(B) Procedures

(1) Establish Public Hearing.

Upon receipt of a request for a public hearing, the Advisory Board shall have 30 days after receiving a request under this article to hold a public hearing and submit its findings and recommendations to the agency that proposed the condemnation. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the board within the time limitations set forth in this article.

(2) Notice of Public Hearing.

The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in Brunswick County at least 10 days prior to the date established for the hearing. The notice shall contain the date, time, and place of the hearing and shall provide the name of the agency requesting the hearing and the purpose of the condemnation.

(3) Public Hearing.

The Advisory Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of Brunswick County. Additionally, the Advisory Board shall review the following:

- (a) Has the need for the project requiring the condemnation been satisfactorily shown by the agency requesting the action?
- (b) Has a financial impact analysis been conducted by the agency seeking the action?
- (c) Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland base of the District within which the proposed action is to take place?

The Advisory Board shall invite and allow input by the North Carolina Cooperative Extension Agent, U.S.D.A. Natural Resources Conservationist, Farm Service Agency Personnel, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Advisory Board's review of the proposed action.

(4) Findings and Notification. Within 10 days after the public hearing, the Advisory Board shall make a report containing its findings and be conveyed recommendations regarding the proposed action. The report shall be conveyed to the decision-making body of the agency proposing acquisition and made available to the public for comment.

**ARTICLE XI: RECORD NOTICE OF PROXIMITY
TO VOLUNTARY AGRICULTURAL DISTRICT**

(A) Procedure

When Brunswick County computerizes its County Land Records System, the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District, the title to that qualifying farmland and real property which is contained in the Brunswick County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a District.

(B) Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

(3) No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or District as defined in this ordinance.

ARTICLE XII: SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within 1/2 aerial mile of the proposed development.

ARTICLE XIII: WAIVER OF WATER AND SEWER ASSESSMENTS

(A) Purpose of Section.

The purpose of this section is to help mitigate the financial impacts on farmers by some local and state capital investments unused by such farmers.

(B) Assessment and Abeyance

If, in addition to current expansion fees, Brunswick County should initiate infrastructure changes of its utilities, such as a special assessment, or a private utility initiates fees against property that the said utility traverses, such that the total charge is dependent upon the amount of property traversed, then said water and sewer assessments shall be held in abeyance, without interest, for farms inside a District, until improvements on such property are connected to the water or sewer system.

(C) Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

- (D) Suspension of Statute of Limitations
Statutes of limitations dependent upon the operation of County ordinances are suspended during the time that any assessment is held in abeyance without interest.
- (E) Other Statutory Abeyance Procedures
Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201.
- (F) Conflict with Water and/or Sewer System Construction and Improvement Grants
To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

ARTICLE XIV: LAND USE INCENTIVES
TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION

- (A) Purpose
The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to Districts.

The Advisory Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons adjacent to any designated District with a goal of informing all current and potential residents and property owners in and adjacent to a District, that farming and agricultural activities may take place in this District any time during the day or night.

- (B) Signage
Signs identifying approved Districts shall be placed along the rights-of-way of major roads that pass through or next to those Districts. There shall at least be one sign posted upon entering and one sign posted upon exiting or as many as may be deemed appropriate by the Advisory Board, or its administrative agent for the county's agricultural District program.
 - (1) Signs identifying approved Districts **may** be placed by the farmer upon the property and along the rights-of-way of major roads in a way calculated to reasonably notify the public and adjoining of the presence of the farm property.
 - (2) Maps identifying approved agricultural districts shall be provided to the following
 - (a) Register of Deeds;
 - (b) Natural Resources Conservation Service;
 - (c) North Carolina Cooperative Extension Service;
 - (d) Soil and Water Conservation District; and

- (e) Any other such agency or office the Advisory Board deems appropriate, such as Brunswick County Planning and Inspections Department, the Farm Service Agency Office, and the Brunswick County Tax Department.
- (3) The following notice provided by the Advisory Board shall be displayed in a prominent position in the office of the Register of Deeds and the public access area in the Brunswick County Tax Department:

NOTICE TO REAL ESTATE PURCHASERS IN BRUNSWICK COUNTY
BRUNSWICK COUNTY AGRICULTURAL DISTRICTS

Brunswick County has established Agricultural Districts to protect and preserve agricultural lands and activities. These Districts have been developed and mapped to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these Districts any time during the day or night.

ARTICLE XV: CONSULTATION AUTHORITY

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual agency, or organization the Advisory Board deems necessary to properly conduct its business.

ARTICLE XVI: NORTH CAROLINA AGENCY NOTIFICATION

(A) Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year, the County shall submit a written report to the North Carolina Commissioner of Agriculture and Consumer Services including the status, progress and activities of the County's District program to include but not limited to:

- (1) Number of landowners enrolled;
- (2) Number of acres for which applications have been made;
- (3) Number of acres certified;
- (4) Number of acres denied;
- (5) Date acres certified

ARTICLE XVII: LEGAL PROVISIONS

(A) Severability

If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(B) Conflict with other ordinances and statutes.

Whenever the provisions of this ordinance conflict with other ordinances of Brunswick County, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

(C) Amendments.

This ordinance may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail 30 days prior to the hearing, and in consultation with the Advisory Board to the Board of Commissioners.

ARTICLE XVIII: ENACTMENT

The Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 17th day of September, 2001

_____/s/_____, Chairman
Brunswick County Board of Commissioners

Attest:

_____/s/_____, Clerk to the Board

Approved as to form:

_____/s/_____, County Attorney